IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 14447 of 2007(T)

PETITIONER:

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1. P.B.RAJAMMA, HEADMISTRESS,
   GOVERNMENT LOWER PRIMARY SCHOOL,
   KARIKKAL.

2. M.R. USHADEVI, H.S.A.,
   GOVERNMENT HIGHER SECONDARY SCHOOL,
   PUTHOOR, KOLLAM DISTRICT.

3. G. VALSALAKUMARI, H.S.A.,
   GOVERNMENT HIGHER SECONDARY SCHOOL
   PUTHOOR, KOLLAM DISTRICT.

BY ADV. SRI.R.ARUN
SRI.LATHEESH SEBASTIAN

RESPONDENTS:

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1. THE KERALA STATE FINAICIAL
   ENTGERPRISES LTD., REPRESENTED BY ITS
   REGIONAL MANAGER, REGIONAL OFFICE, KOLLAM.

2. THE BRANCH MANAGER,
   K.S.F.E. SASTHAMKOTTA BRANCH.

3. THE BRANCH MANAGER,
   K.S.F.E. PUTHOOR BRANCH.

4. THE SPECIAL DEPUTY TAHSILDAR,
   K.S.F.E., KOLLAM.

5. V. SOMAN, TRIVENI,
   KUNNATHOOR EAST P.O., KOLLAM.

6. L. INDIRA, W/O.V.SOMAN,
   TRIVENI, KUNNATHOOR EAST P.O., KOLLAM.

BY ADV. SRI.M.K.CHANDRAMOHAN DAS, SC, KSFE, LTD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE NOTICE OF R4 DT.13.2.07 TO 1ST PETITIONER.

P2: TRUE COPY OF PROHIBITORY ORDER OF R4 DT.4.10.06 TO 2ND PETITIONER.

P3: .DO. DT.21.1.06 TO 3RD PETITIONER.

P4: TRUE COPY OF REPRESENTATION DT.31.1.07 TO R4 BY THE 1ST PETITIONER.

P5: .DO. 2ND PETITIONER.

P6: .DO. 3RD PETITIONER.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.14447 of 2007

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Dated this the 20th day of August, 2007.

JUDGMENT

The petitioners are admittedly guarantors for the chitty and loan availed by respondents 5 and 6 from KSFE. After default, petitioners' salary is under attachment against which this W.P. is filed. Even though petitioners claim that defaulters have property, Standing Counsel for KSFE submitted that the property of the 6th respondent is under attachment by civil court and the property of the 5th respondent is only 2.5 ares of land. The total arrears is stated to be above Rs.5 lakhs. In any case petitioners have no escape from liability as they are admittedly the guarantors. However, on equitable consideration, I direct respondents 2 to 4 and the employers before whom respondents 5 and 6 are employed to recover by sale of property and through recoveries from retirement benefits or any other amount and remit the same to the loan account. Recovery from the petitioners should be limited to the balance amount. Moreover, Section 80 of the Revenue Recovery Act read with Section 60(1)(i) of CPC provides that recovery through attachment of salary should be subject to the limitation provided thereunder. The recovery authorities will intimate the

petitioners the date of notification of sale of defaulters' property so that if there is no purchaser, petitioners can purchase the property in such sale. Respondents 1 to 3 should attach the amounts standing in the credit of the defaulters and should sell the properties within two months from date of production of copy of this judgment.

C.N.RAMACHANDRAN NAIR
Judge

pms